

**REMARKS**

This responds to the Office Action mailed on September 5, 2008.

Claims 1, 16, and 27 are amended, no claims are canceled, and no claims are added; as a result, claims 1-30 are now pending and subject to examination in this application.

**Interview Summary**

The Applicant would like to express its gratitude to Examiner Jessica Roberts for the courtesies extended to its representative Mr. David D'Zurilla during an in person interview at the United States Patent and Trademark Office on November 17, 2008. Examiner Roberts and Mr. D'Zurilla discussed the pending claims and the references of record, and in particular, the Flickner and Gu references. No agreement on the claims was reached. Mr. D'Zurilla agreed to submit a written response to the Office Action of September 5, 2008.

**Claim Objections and § 112 Rejections**

Claims 1-30 were objected to under 37 C.F.R. § 1.75(d)(1), as failing to conform to the invention as set forth in the remainder of the specification.

Claim 1 was objected to because there is no support for “contextual information”.

Claims 2-15 and 28-30 were objected to for being dependent upon claim 1.

Claim 16 was objected to because there is no support for “contextual information”.

Claims 15-26 were objected to for being dependent upon claim 16.

Claim 27 was objected to because there is no support for “contextual information”.

The Applicant has amended the claims to recite a “block of pixels” in lieu of “contextual information.” Support for this amendment can be found in at least ¶ [0046] of the Applicant’s specification. The Applicant respectfully submits that these amendments overcome the rejections and objections to the claims, and respectfully requests the withdrawal of the rejection and objection to the claims.

*§103 Rejection of the Claims*

Claims 1-26 and 28-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pavlidis et al. , Urban Surveillance Systems 2001 in view of Monroe et al., US-2003/0025599 in view of Flickner et al., US-2003/0107649A1 and further in view of gu et al., US 5,874,988.

Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Monroe et al., US 2003/0025599 in view of Pavlidis et al.: Urban Surveillance Systems, 2001 in view of Flickner et al., US 2003/0107649 A1 and in further view of Gu et al., US 5,874,988.

The Applicant has amended the claims to recite that “the first color pixel distribution is pre-selected, prior to the receiving video images of the monitored area, as a function of the block of pixels that does not represent any motion of interest.” The Applicant respectfully submits that this amendment distinguishes over the cited ¶ [0025] of Flickner. Paragraph [0025] of Flickner relates to applying a filter to several seconds of video to distinguish moving pixels from stationary pixels by monitoring color and assuming that a color that predominates at a given pixel over time is representative of the background. In contrast, the claims recite that the first color pixel distribution is pre-selected prior to receiving video images of the monitored area. For at least this reason then, the Applicant respectfully submits that the claims distinguish over the Flickner and other cited references. Since at least one element of the claims is not found in the references either alone or combined, a *prima facie* case of obviousness cannot be established and the rejection should be withdrawn.

Additionally, the Office Action cites the Gu reference as teaching that a first color pixel distribution is pre-selected. In response, the Applicant respectfully submits that Gu relates to a color correction system for images, and can be used for such purposes as intensifying the color of a soft drink can in a commercial.<sup>1</sup> The Applicant respectfully submits that the highlighting of color in images does not provide a teaching of a selection of a portion of a frame with a color distribution that does not represent any motion of interest. As such, the Applicant further respectfully submits that a *prima facie* case of obviousness cannot be based on Gu, and respectfully submits that the claims are allowable over Gu and the other cited references.

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<sup>1</sup> Gu, column 1, lines 26-35.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 371-2140 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

December 4, 2008

By

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 4, 2008.

Name

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